

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11347 of 1993

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AMRUTLAL KESHAVLAL SANGHVI

Versus

MEHSANA NAGARPALIKA

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Appearance:

Mr. D.C.Raval for M/S ANAND ADVOCATES for Petitioner

MRS KETTY A MEHTA for Respondent No. 1

Mr. D.M.Thakkar for MR PM THAKKAR for Respondent No. 2

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 12/03/98

ORAL JUDGEMENT

Petitioner before this Court was, at the relevant time, serving as the Chief Officer of the Mehsana Nagarpalika, respondent No. 1 herein. Under order dated

22nd October, 1993, the President of the respondent No.1 Municipality sent a communication to the petitioner informing him that in view of the complaints in respect of corruption, unsatisfactory performance and the negligence towards duty made against the petitioner and the inquiry made into such complaints, the Municipality under its resolution dated 22nd October, 1993 had decided that the petitioner's continuance in service was not conducive to the interest of the municipality and that he was dismissed from service with effect from 22nd October, 1993. It is this communication dated 22nd October, 1993 which is the subject matter of challenge in this petition.

2. The petitioner has raised several contentions in this petition one of which is the nonobservance of the principles of natural justice. The petitioner has contended that no disciplinary action has been taken against the petitioner in respect of the complaints made against him. Said contention has not been denied by the respondents. It is, however, contended by respondent No. 1 that the petitioner was called upon to explain his conduct and to remain present in the meeting on 22nd October, 1993. However, he chose not to do so. Be that as it may, it is evident that no chargesheet has been issued upon the petitioner nor has he been called upon to answer the imputation of the charge, no formal disciplinary action has been taken against the petitioner. It is apparent that the termination of service of the petitioner is punitive and the service of the Chief Officer cannot be terminated for a cause without observing the principle of audi alteram partem and without affording an opportunity to defend himself. Petition is required to be allowed on this ground alone.

3. Petition is, therefore, allowed. The impugned communication dated 22nd October, 1993 (Annexure "D" to the petition) and the Resolution No. 293 dated 22nd October, 1993 are hereby quashed and set aside. In view of the interim relief granted by this Court, no consequential orders are required to be made. Rule is made absolute accordingly. There shall be no order as to costs. This order is made without prejudice to the rights and contentions of either of the parties.

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Vyas